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TECHNOLOGY CENTER 2100

In re Application of: Paul A. Voois, et al.)
Application No.: 09/597,704)
Filed: June 16, 2000)
For: COMMUNICATIONS)
CONTROLLER AND METHOD)
THEREFOR)

**DECISION ON PETITION
UNDER 37 CFR §1.181 TO
WITHDRAW HOLDING OF
ABANDONMENT**

This is a decision on the petition filed, April 29, 2004, under 37 C.F.R. § 1.181 requesting the Withdrawal of the Holding of Abandonment of the above-identified application. (See MPEP § 711.03(c)).

The petition is **GRANTED**.

The Application was abandoned for failure to file a timely response to the Office action mailed on August 11, 2003. A Notice of Abandonment was mailed April 15, 2004

37 C.F.R. § 1.8(b) states:

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence,

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

In support of the petition, Petitioner provides a copy of the originally submitted amendment and response (6 pages) which bears a certificate of transmission by facsimile signed by Kelly S. Waltigney dated November 11, 2003, a facsimile transmission report indicating that 6 pages were successfully transmitted, and a personal knowledge statement by Kelly S. Waltigney attesting to the timely facsimile transmission of the response.

Petitioner has established that a timely response was filed on November 11, 2003 within the 3-month shortened statutory period of response and that no extension of time fees were required for the response.

Accordingly, the petition is **GRANTED**. The Notice of Abandonment is **VACATED**.

The application file is being forwarded to the technical support staff for entry of the response. From there, the application file will be forwarded to the examiner for consideration of the response.



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